COMMENTS

The enclosed is responsive to the Examiner's Final Office Action mailed on 8/30/2007 and is being filed pursuant to a Request for Continued Examination (RCE) as provided under 37 CFR 1.114. At the time the Examiner's Office Action was mailed claims 1-30 were pending. By way of the present response the Applicant has: 1) amended claims 1, 2, 5, 7, 8, 10, 11, 12, 15-18, 20, 21, 22, 25, 27 and 30; 2) not added any claims; and, 3) canceled claims 4, 9, 14, 19, 24 and 29. As such, claims 1-3, 5-8, 10-13, 15-18, 20-23, 25-28 and 30 are now pending. The Applicant respectfully requests reconsideration of the present application and the allowance of claims 1-3, 5-8, 10-13, 15-18, 20-23, 25-28 and 30.

Formalistic Claim Objections/Rejections

The Examiner has rejected independent claims 1, 11 and 21 under 35 USC 112 as being indefinite because of their use of the word "its". See, Examiner's Office Action, mailed 8/30/07, p. 3. Independent claims 1, 11 and 21 prior to the present response contained three instances of the words "its". The Examiner did not indicate if one, two or all of these instances were the basis for the Examiner's rejection. Independent claims 1, 11 and 21 have subsequently been amended to eliminate the second and third but add another instance of the word "its".

Therefore, presently, there are two instances of the word its (emphasized below).

> displaying a tree on a graphical user interface, said tree comprising:
> a) a first node that identifies a testing scenario for a business logic process;
> b) one or more sub nodes of said first node, each of said one or more sub nodes identifying a different software component of said business logic process, each of said one or more sub nodes capable of spawning its own sub tree that includes:

i) <u>a node that identifies a computing system within which an instance of **its**</u>
<u>sub node's corresponding software component is instantiated</u>;
ii) an availability node that indicates said instance is unavailable when said
instance is unavailable, said indication that said instance is unavailable being
made with a color that is different than another color used to indicate said
instance is available when said instance is available;
iii) a heartbeat node that displays text contained in a message received from
a network, said message pertaining to said instance and part of said testing
scenario;
displaying a feature on said graphical user interface apart from said tree, said feature
showing non working testing scenarios for other business logic processes.

The Applicant respectfully submits there is nothing uncertain in either instance of the
Applicant's use of the word "its" and therefore the claim should no longer be rejected
under 35 USC 112. The first instance of the word "its" simply and clearly conveys
the notion that a sub tree belongs to a sub node. The second instance of the word
"its" simply and clearly conveys the notion that a sub node belongs to a software
component. The Applicant notes that GUI features belonging to other GUI features
is a pertinent part of the hierarchical structure of a GUI "tree" and therefore use of a
possessive term such as "its" is both logical and clear. Therefore the Applicant
respectfully submits the Examiner's rejection should be removed.

Claim Rejections

The Examiner has maintained his rejection of independent claims 1, 11 and
21 under 35 U.S.C. 103(a) as being unpatentable in view of U.S. Pub App. No.
2004/0139194 (hereinafter "Naganathan") and U.S. Patent No. 6,735,200
(hereinafter, "Novaes"). The Applicant maintains that the references cited by the
Examiner are insufficient to disclose each and every element of claims 1, 11 and 21
as they existed prior to the present response.

As the Applicant understands the Examiner's argument:

1) paragraphs 0032 and 0037 of Naganathan disclose

> "displaying a tree on a graphical user interface, said tree comprising:
> a) a first node that identifies a testing scenario;
> b) one or more sub nodes of said first node, each of said one or more sub nodes identifying a different software component of a business logic process . . .";

2) paragraph 0012 of Naganathan discloses

> ". . . each of said one or more sub nodes capable of spawning its own sub node . . . "

3) Col. 3, lines 17-20 of Navaes discloses

> ". . . [a spawned sub node] that indicates its corresponding software component is unavailable when its corresponding software component is unavailable."

With respect to position 1) above, paragraph [0032] of Naganathan indicates the console displays graphics visual representations of managed objects and the ability to manipulate data attributes and properties of the managed objects. Paragraph [0037] of Naganathan indicates that managed objects are arranged in a tree. The Applicant notes that Nagathan is directed to a system for "monitoring and measuring network service availability." See, Nagathan, para. [0012]. As far as the Applicant can tell, Naganathan is strictly limited to monitoring a network - not business logic software. As such, Nagathan does not appear to disclose any subject matter pertaining to "software components of a business logic process". Therefore the Examiner's analysis with respect to position 1) is inaccurate at least so far as it concludes that Nagathan discloses monitoring of business logic software.

With respect to position 2) above, paragraph 0012 of Naganathan merely discloses a high level summary of the capabilities of the system disclosed by Naganathan. Stated simply, nothing in paragraph [0012] of Naganathan discloses the specifics of a GUI in sufficient detail to cover the claim element " . . . each of said one or more sub nodes capable of spawning its own sub node . . . ." The Applicant notes that this element is directed to the visual experience of a user of the GUI (i.e., the user can see a sub node spawned by another sub node). Paragraph [0012] of Naganathan is not directed to a GUI and cannot possibly disclose the specific GUI experience this claim element pertains to.

With respect to position 3) above, Novaes appears to be related to routing of multicast calls within a network. Thus, like Naganathan, Novaes does not contemplate the monitoring of business logic software. Novaes deals with availability of network nodes but business logic software components.

In summary, the Examiner's rejection is insufficient for at least two reasons: 1) neither of the Naganathan or Novaes references is directed to the monitoring of business logic software (both references are directed to monitoring of network resources); 2) the claim element " . . . each of said one or more sub nodes capable of spawning its own sub node . . . ." simply has not been identified - the element is directed to a specific GUI experience and the Examiner has cited a paragraph that simply does not disclose any information that pertains to a specific GUI experience.

Nevertheless, in the interests of moving the advancement of the present application towards allowance the Applicant has amended each of independent claims 1, 11 and 21 to recite the following:

> displaying a tree on a graphical user interface, said tree comprising:
> a) a first node that identifies a testing scenario for a business logic process;
> b) one or more sub nodes of said first node, each of said one or more sub nodes identifying a different software component of said business logic process, each of said one or more sub nodes capable of spawning its own sub tree that includes:
> > i) a node that identifies a computing system within which an instance of its sub node's corresponding software component is instantiated;
> > ii) an availability node that indicates said instance is unavailable when said instance is unavailable, said indication that said instance is unavailable being made with a color that is different than another color used to indicate said instance is available when said instance is available;
> > iii) a heartbeat node that displays text contained in a message received from a network, said message pertaining to said instance and part of said testing scenario;
> displaying a feature on said graphical user interface apart from said tree, said feature showing non working testing scenarios for other business logic processes.

The Applicant notes that, given the flaws in the Examiner's rejection provided above, the amendments made to the claims are not being made for reasons pertaining to patentability. Therefore the benefit of the doctrine of equivalents should be given to the added subject matter.

The Applicant respectfully submits that in order for the Examiner to properly reject the above claim the Examiner must not only find references that disclose the newly added subject matter but must also cure the defects in the Examiner's analysis as applied to the claims prior to the amendment (such defects being identified above).

The Examiner's attention is drawn to Figures 8 and 9 of the present application for support for the newly submitted claims. The Applicant also notes that

the present claims recite two primary features "a tree" and "a feature . . . apart from said tree". Embodiments of these features can be found in the Applicant's specification as the "alert monitor tree" and "error tree" respectively. That is, the alert monitor tree of Fig. 8 of the Applicant's specification can be viewed as an embodiment of the claimed "tree" and the error tree of Fig. 9 of the Applicant's specification can be viewed as an embodiment of the claimed "feature . . . apart from said tree".

Because the Applicant has demonstrated the patentability of all pending independent claims, the Applicant respectfully submits that all pending claims are allowable. The Applicant's silence with respect to the dependent claims should not be construed as an admission by the Applicant that the Applicant is complicit with the Examiner's rejection of these claims. Because the Applicant has demonstrated the patentability of the independent claims, the Applicant need not substantively address the theories of rejection applied to the dependent claims. Moreover, where the Applicant has failed to address a specific independent claim element alleged by the Examiner to be covered by prior art, such failure should not be viewed as an admission by the Applicant that the Applicant accepts or agrees with the Examiner's reasoning.

In the further interests of efficiency, the Applicant reserves the right under MPEP 2144.03.C to cause the Examiner to find in the prior art subject matter to which the Examiner has taken Official Notice at a later time in the prosecution of the present case when the subject matter of such prior art is actually at issue.

If there are any additional charges, please charge Deposit Account No. 02-2666. If a telephone interview would in any way expedite the prosecution of this application, the Examiner is invited to contact Robert B. O'Rourke at 408-720-8300.

Respectfully submitted,

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Dated: _____11/30/07_____

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